

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

**In re: PHARMACEUTICAL INDUSTRY
AVERAGE WHOLESALE PRICE LITIGATION**

)
) **MDL No. 1456**
) **Master File No. 01-CV-12257-PBS**
) **Subcategory Case No. 06-11337**
) **Hon. Patti B. Saris**
)

THIS DOCUMENT RELATES TO:

*United States of America ex rel. Ven-A-Care of the
Florida Keys, Inc., et al. v. Dey, Inc., et al.,*
Civil Action No. 05-11084-PBS

)
) **Magistrate Judge**
) **Marianne B. Bowler**
)
)
)
)

**DECLARATION OF SARAH L. REID IN SUPPORT OF DEY, L.P., DEY, INC.,
AND DEY L.P., INC.'S MOTION FOR PARTIAL SUMMARY JUDGMENT**

SARAH L. REID declares, pursuant to 28 U.S.C. § 1746, that:

1. I am a member of the law firm of Kelley Drye & Warren LLP, counsel to Dey L.P., Dey, Inc., and Dey L.P., Inc. (collectively "Dey"). I am admitted to practice law in the State of New York and have been admitted *pro hac vice* in this action.
2. I make this Declaration in support of Dey's Motion for Partial Summary Judgment.
3. The basis for my knowledge is my review of the files maintained by Kelley Drye & Warren LLP as part of its representation of Dey, including the documents attached hereto, and my own personal knowledge of the facts and circumstances set forth herein.
4. Attached hereto as Exhibit 1 is a true and correct copy of a print-out of the Brand History section of Dey, L.P.'s website, *available at* <http://www.dey.com/generics/deybrand/history.asp>.
5. Attached hereto as Exhibit 2 is a true and correct copy of a print-out of the Albuterol Sulfate section of Dey L.P.'s website, *available at* www.dey.com/generics/products/albuterol.asp.

6. Attached hereto as Exhibit 3 is a true and correct copy of a print-out of the Drug Information (Albuterol Inhalation) section of the National Library of Medicine and National Institute of Health website, *available at* <http://www.nlm.nih.gov>.

7. Attached hereto as Exhibit 4 is a true and correct copy of a print-out of the Drug Details (Albuterol Sulfate) section of the U.S. Food and Drug Administration website, *available at* <http://www.accessdata.fda.gov>.

8. Attached hereto as Exhibit 5 is a true and correct copy of excerpts from the deposition of Dey, L.P. and Dey, Inc.'s 30(b)(6) designee, Pamela Marrs, taken on May 15, 2008.

9. Attached hereto as Exhibit 6 is a true and correct copy of a print-out of the Overview (Albuterol Sulfate) section of the U.S. Food and Drug Administration website, *available at* <http://www.accessdata.fda.gov>.

10. Attached hereto as Exhibit 7 is a true and correct copy of a print-out of the Drug Information: Cromolyn Sodium Oral Inhalation section of the National Library of Medicine and National Institute of Health website, *available at* www.nlm.nih.gov.

11. Attached hereto as Exhibit 8 is a true and correct copy of a print-out of the Overview (Cromolyn Sodium) section of the U.S. Food and Drug Administration website, *available at* <http://www.accessdata.fda.gov>.

12. Attached hereto as Exhibit 9 is a true and correct copy of a print-out of the Ipratropium Bromide section of Dey L.P.'s website, *available at* <http://www.dey.com/generics/products/ipratropium.asp>.

13. Attached hereto as Exhibit 10 is a true and correct copy of a print-out of Drug Information: Ipratropium Oral Inhalation section of the National Library of Medicine and National Institute of Health website, *available at* www.nlm.nih.gov.

14. Attached hereto as Exhibit 11 is a true and correct copy of a print-out of Drug Details (Ipratropium Bromide) section of the U.S. Food and Drug Administration website, *available at* <http://www.accessdata.fda.gov>.

15. Attached hereto as Exhibit 12 is a true and correct copy of a print-out of the Overview (Ipratropium Bromide) section of the U.S. Food and Drug Administration website, *available at* <http://www.accessdata.fda.gov>.

16. Attached hereto as Exhibit 13 is a true and correct copy of the United States' First Amended Complaint, filed on September 29, 2008 in this action.

17. Attached hereto as Exhibit 14 is a true and correct copy of Dey, Inc., Dey L.P., Inc., and Dey, L.P.'s Answer and Defenses to the United States' First Amended Complaint, filed on October 16, 2008 in this action.

18. Attached hereto as Exhibit 15 is a true and correct copy of excerpts from the deposition of Russell Johnston, taken on December 11, 2008.

19. Attached hereto as Exhibit 16 is a true and correct copy of excerpts from the deposition of Russell Johnston, taken on December 10, 2008.

20. Attached hereto as Exhibit 17 is a true and correct copy of the Drug Price Competition and Patent Term Restoration Act of 1984, Pub. L. No. 98-417, 98 Stat. 1585 (1984).

21. Attached hereto as Exhibit 18 is a true and correct copy of excerpts of the United States Food and Drug Administration publication Approved Drug Products, 20th ed. (2000), previously marked as Exhibit Dey 136.

22. Attached hereto as Exhibit 19 is a true and correct copy of a print-out from the U.S. Food and Drug Administration website entitled Generic Competition and Drug Prices, *available at* <http://www.fda.gov/AboutFDA/CentersOffices/CDER/ucm129385.htm>.

23. Attached hereto as Exhibit 20 is a true and correct copy of the U.S. Centers for Medicare and Medicaid Services publication entitled Health Care Industry Market Update, dated January 10, 2003, *available at* <http://www.cms.hhs.gov/CapMarketUpdates/Downloads/hcimul11003.pdf>.

24. Attached hereto as Exhibit 21 is a true and correct copy of the U.S. Congressional Budget Office study entitled How Increased Competition from Generic Drugs Has Affected Prices and Returns in the Pharmaceutical Industry, dated July 1998, previously marked as Exhibit Abbott 474, *available at* <http://www.cbo.gov/ftpdocs/6xx/doc655/pharm.pdf>.

25. Attached hereto as Exhibit 22 is a true and correct copy of excerpts from the deposition of Dey L.P. and Dey, Inc.'s 30(b)(6) designee, Pamela Marrs, taken on July 10, 2008.

26. Attached hereto as Exhibit 23 is a true and correct copy of excerpts from the deposition of Robert Francis Mozak, taken on March 13, 2003.

27. Attached hereto as Exhibit 24 is a true and correct copy of excerpts from the deposition of Patricia Kay Morgan, taken on November 30, 2007.

28. Attached hereto as Exhibit 25 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated July 18, 2000, Bates DL-0050107-113.

29. Attached hereto as Exhibit 26 is a true and correct copy of excerpts from the deposition of Dey L.P. and Dey, Inc.'s 30(b)(6) designee, Pamela Marrs, taken on October 2, 2008.

30. Attached hereto as Exhibit 27 is a true and correct copy of Defendants Dey, Inc., Dey L.P., Inc., and Dey, L.P.'s Responses and Objections to Plaintiffs' First Set of Interrogatories to Defendants Dey, Inc., Dey L.P., Inc., and Dey, L.P., dated June 19, 2008.

31. Attached hereto as Exhibit 28 is a true and correct copy of excerpts from the deposition of Robert Francis Mozak, taken on April 30, 2002.

32. Attached hereto as Exhibit 29 is a true and correct copy of a Dey, L.P. memorandum regarding Future Medicaid Mailings, dated January 7, 1999, Bates DL-TX-0092446-50, previously marked as Exhibit 273 to the March, 1, 2006 deposition of Todd Galles.

33. Attached hereto as Exhibit 30 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated January 4, 1999, Bates DL-0050063.

34. Attached hereto as Exhibit 31 is a true and correct copy of the Omnibus Budget Reconciliation Act of 1990, Pub. L. No. 101-508, § 4401, 104 Stat. 1388 (1990).

35. Attached hereto as Exhibit 32 is a true and correct copy of the minutes from a November 27-28, 1990 meeting of the Pharmacy Technical Advisory Group (PTAG), Bates AL-ARCH 0001122-1130.

36. Attached hereto as Exhibit 33 is a true and correct copy of excerpts from the deposition of Thomas A. Scully, taken on July 13, 2007.

37. Attached hereto as Exhibit 34 is a true and correct copy of a cover note and a Rebate Agreement between the Secretary of Health and Human Services and Dey, dated February 28, 1991, previously marked as Exhibit Dey 23.

38. Attached hereto as Exhibit 35 is a true and correct copy of excerpts from the deposition of Bruce C. Vladeck, taken on June 21, 2007.

39. Attached hereto as Exhibit 36 is a true and correct copy of excerpts from the deposition of Kimberly M. Howell, taken on April 22, 2008.

40. Attached hereto as Exhibit 37 is a true and correct copy of excerpts from the deposition of Deirdre Duzor, taken on March 26, 2008.

41. Attached hereto as Exhibit 38 is a true and correct copy of the U.S. Department of Health and Human Services Office of Inspector General ("OIG") report entitled Cost Containment of

Medicaid HIV/AIDS Drug Expenditures (OEI-05-99-00611), dated July 2001, previously marked as Exhibit Abbott 121.

42. Attached hereto as Exhibit 39 is a true and correct copy of excerpts from the deposition of the United States' 30(b)(6) designee, Ann Maxwell, taken on June 10, 2009.

43. Attached hereto as Exhibit 40 is a true and correct copy of excerpts from the Medicare Prescription Drug Improvement and Modernization Act of 2003, Pub. L. No. 108-173, § 303(c)(2), 117 Stat. 2066, 2233-54 (2003).

44. Attached hereto as Exhibit 41 is a true and correct copy of 42 C.F.R. § 414.904 (2007), previously marked as Exhibit Abbott 386.

45. Attached hereto as Exhibit 42 is a true and correct copy of an OIG memorandum entitled Memorandum Report: Comparison of First-Quarter 2008 Average Sales Prices and Average Manufacturer Prices: Impact on Medicare Reimbursement for Third Quarter 2008, (OEI-03-08-00530), dated December 2008.

46. Attached hereto as Exhibit 43 is a true and correct copy of the United States General Accounting Office Report to Congressional Requesters entitled DOD and VA Pharmacy: Progress and Remaining Challenges in Jointly Buying and Mailing Out Drugs (GAO-01-588), dated May 2001.

47. Attached hereto as Exhibit 44 is a true and correct copy of the United States Department of Veteran Affairs catalog entitled VA Federal Supply Schedules, dated 2004, *available at* http://www.gsaadvantage.gov/images/products/elib/pdf_files/va.pdf.

48. Attached hereto as Exhibit 45 is a true and correct copy of a print-out from the Pharmacy Benefits Management Services-Drug Pharmaceutical Prices section of the U.S. Department of Veterans Affairs web site, *available at* <http://www.pbm.va.gov/DrugPharmaceuticalPrices.aspx>.

49. Attached hereto as Exhibit 46 is a true and correct copy of the OIG report entitled Are Medicare Allowances for Albuterol Sulfate Reasonable? (OEI-03-97-00292), dated August 1998, previously marked as Exhibit Abbott 64.

50. Attached hereto as Exhibit 47 is a true and correct copy of the OIG report entitled Medicare Payments for Nebulizer Drugs (OEI-03-94-00390), dated February 1996, previously marked as Exhibit Abbott 33.

51. Attached hereto as Exhibit 48 is a true and correct copy of the OIG report entitled A Comparison of Albuterol Sulfate Prices (OEI 03-94-00392), dated June 1996, Bates HHD014-035-253, previously marked as Exhibit Abbott 60.

52. Attached hereto as Exhibit 49 is a true and correct copy of the OIG report entitled Suppliers' Acquisition Costs for Albuterol Sulfate (OEI-03-94-00393), dated June 1996, Bates HHD014-0254-278, previously marked as Exhibit Abbott 30.

53. Attached hereto as Exhibit 50 is a true and correct copy of the OIG report entitled Excessive Medicare Payments for Prescription Drugs (OEI-03-97-00290), dated December 1997, Bates HHD014-0023-0050, previously marked as Exhibit Abbott 49.

54. Attached hereto as Exhibit 51 is a true and correct copy of the OIG report entitled Comparing Drug Reimbursement: Medicare and Department of Veterans Affairs (OEI-03-97-00293), dated November 1998, Bates HHD014-0051-70, previously marked as Exhibit Abbott 101.

55. Attached hereto as Exhibit 52 is a true and correct copy of the OIG report entitled Medicare Reimbursement of Albuterol (OEI-03-00-00311), dated June 2000, previously marked as Exhibit Dey 724.

56. Attached hereto as Exhibit 53 is a true and correct copy of the OIG report entitled Medicare Reimbursement of Prescription Drugs (OEI-03-00-00310), dated January 2001, previously marked as Exhibit Abbott 1005.

57. Attached hereto as Exhibit 54 is a true and correct copy of the OIG report entitled Excessive Reimbursement for Albuterol (OEI-03-01-00410), dated March 2002, previously marked as Exhibit Dey 726.

58. Attached hereto as Exhibit 55 is a true and correct copy of the OIG report entitled Update: Excessive Medicare Reimbursement for Albuterol (OEI-03-03-00510), dated January 2004, previously marked as Exhibit Dey 725.

59. Attached hereto as Exhibit 56 is a true and correct copy of a letter from Justin Draycott to Neil Merkl, Martin F. Murphy, and David Torborg, dated February 9, 2007.

60. Attached hereto as Exhibit 57 is a true and correct copy of a memorandum from "Karen" to "Rob," "Bob," and "Amy," dated November 8, 1995, Bates HHD011-0915-29, previously marked as Exhibit Dey 17.

61. Attached hereto as Exhibit 58 is a true and correct copy of a document entitled Conversions From NDC Amounts to HCPCS Amounts, dated May 21, 1998, Bates HHD010-0111-12.

62. Attached hereto as Exhibit 59 is a true and correct copy of a print-out from Red Book™ for Windows®, dated January 1998, Bates HHD010-0348-49.

63. Attached hereto as Exhibit 60 is a true and correct copy of the OIG report Excessive Medicare Reimbursement for Ipratropium Bromide (OEI-03-01-00411), dated March 2002, previously marked as Exhibit Dey 511.

64. Attached hereto as Exhibit 61 is a true and correct copy of the OIG report Update: Excessive Medicare Reimbursement for Ipratropium Bromide (OIG-03-03-00520), dated January 2004, previously marked as Exhibit Abbott 122.

65. Attached hereto as Exhibit 62 is a true and correct copy of an excerpt from a fax from Dr. Robert M. Zone to Robert Vito, dated February 13, 1996, Bates HHD011-0270.

66. Attached hereto as Exhibit 63 is a true and correct copy of a Pharmaceutical Buyers, Inc. catalog, dated November 28, 1995, Bates HHD194-1158-85.

67. Attached hereto as Exhibit 64 is a true and correct copy of a contract award between Dey Laboratories and Gerimed, effective August 1, 1996, Bates HHD194-1256.

68. Attached hereto as Exhibit 65 is a true and correct copy of an annotated invoice, dated December 7, 1999, Bates HH027-0342-60.

69. Attached hereto as Exhibit 66 is a true and correct copy of an annotated invoice, dated April 22, 1999, Bates HHD028-0207-20.

70. Attached hereto as Exhibit 67 is a true and correct copy of excerpts from the deposition of Ven-A-Care of the Florida Keys, Inc.'s ("Ven-A-Care") 30(b)(6) designee, T. Mark Jones, taken on December 8, 2008.

71. Attached hereto as Exhibit 68 is a true and correct copy of a fax from Zach Bentley to Robert Vito, dated March 19, 1996, Bates R1-019102-109, previously marked as Exhibit Dey 215.

72. Attached hereto as Exhibit 69 is a true and correct copy of excerpts from the deposition of Zachary Taylor Bentley II, taken on March 6, 2008.

73. Attached hereto as Exhibit 70 is a true and correct copy of a fax from Mark Jones to Robert Vito, dated February 4, 1997, Bates VAC MDL 43554-556, previously marked as Exhibit Dey 307.

74. Attached hereto as Exhibit 71 is a true and correct copy of a fax from Zach Bentley and Mark Jones to Rob Vito, dated April 4, 1997, Bates VAC MDL 43585-586, previously marked as Exhibit Dey 308.

75. Attached hereto as Exhibit 72 is a true and correct copy of a fax from "Mark" and "Zach" to Rob Vito and Linda Ragone, dated June 19, 1997, Bates VAC MDL 43646-650, previously marked as Exhibit Dey 310.

76. Attached hereto as Exhibit 73 is a true and correct copy of a fax from "Zach" to Rob Vitto, dated November 24, 1997, Bates VAC MDL 43715-720, previously marked as Exhibit Dey 314.

77. Attached hereto as Exhibit 74 is a true and correct copy of a fax from Ven-A-Care to Rob Vito, dated May 16, 2001, Bates VAC MDL 43201-203, previously marked as Exhibit Dey 322.

78. Attached hereto as Exhibit 75 is a true and correct copy of a fax from Ven-A-Care to Rob Vito, dated June 19, 1997, Bates VAC MDL 43204-207, previously marked as Exhibit Dey 323.

79. Attached hereto as Exhibit 76 is a true and correct copy of a print-out from Innovatix.com's website, dated May 6, 2002, Bates R2-015617-618, previously marked as Exhibit Dey 324.

80. Attached hereto as Exhibit 77 is a true and correct copy of excerpts from the deposition of Ven-A-Care's 30(b)(6) designee, T. Mark Jones, taken on December 9, 2008.

81. Attached hereto as Exhibit 78 is a true and correct copy of excerpts from the deposition of Ven-A-Care's 30(b)(6) designee, John M. Lockwood, taken on June 19, 2009.

82. Attached hereto as Exhibit 79 is a true and correct copy of a fax from "Zach" to Rob Vito, dated February 3, 1998, Bates VAC MDL 43454-456, previously marked as Exhibit Dey 315.

83. Attached hereto as Exhibit 80 is a true and correct copy of a fax from "Zach" to Rob Vito, dated August 13, 1998, Bates VAC MDL 43543-545, previously marked as Exhibit Dey 316.

84. Attached hereto as Exhibit 81 is a true and correct copy of a fax from "Zach" to Rob Vitto, dated August 20, 1999, Bates VAC MDL 43319-20, previously marked as Exhibit Dey 318.

85. Attached hereto as Exhibit 82 is a true and correct copy of a circular from Leonard Sierra to Cobo Pharmacy, dated March 22, 2000, Bates R1-022890, previously marked as Exhibit Dey 320.

86. Attached hereto as Exhibit 84 is a true and correct copy of a fax from Barbara Zelner to Mark Levine, dated April 2, 1998, Bates VAC MDL 75947-51, previously marked as Exhibit Bentley 566.

87. Attached hereto as Exhibit 85 is a true and correct copy of a fax from B. Zelner to Zach Bentley, dated April 14, 1998, Bates VAC MDL 75939-43, previously marked as Exhibit Dey 327.

88. Attached hereto as Exhibit 86 is a true and correct copy of a fax from B. Zelner to Zach Bentley, dated April 7, 1998, Bates VAC MDL 75930-34, previously marked as Exhibit Dey 328.

89. Attached hereto as Exhibit 89 are true and correct copies of documents, Bates VAC MDL 89737-863, previously marked as Exhibit Dey 177.

90. Attached hereto as Exhibit 92 is a true and correct copy of excerpts from the deposition of John Lockwood, taken on July 23, 2008.

91. Attached hereto as Exhibit 94 is a true and correct copy of the Second Amended Complaint for Money Damages & Civil Penalties Under the False Claims Act 31 U.S.C. §§ 3729-3732, filed on August 13, 1997 in *United States of America ex rel Ven-A-Care of the Florida Keys, Inc. v. Dey Laboratories*, Civil Action No. 95-1354-Civ. (S.D. Fla.).

92. Attached hereto as Exhibit 95 is a true and correct copy of the Third Amended Complaint for Money Damages & Civil Penalties Under the False Claims Act 31 U.S.C. §§ 3729-3732,

filed on December 9, 1999 in *United States of America ex rel Ven-A-Care of the Florida Keys, Inc. v. Dey, Inc.*, Civil Action No. 95-1354-Civ. (S.D. Fla.).

93. Attached hereto as Exhibit 96 is a true and correct copy of the United States' Unopposed Motion for Extension of Seal on *Qui Tam* Complaint Through January 15, 1998 and for Partial Lifting of the Seal and Memorandum of Law, filed on October 17, 1997 in *United States of America ex rel Ven-A-Care of the Florida Keys, Inc. v. Abbott Labs. et al.*, Civil Action No. 95-1354-Civ. (S.D. Fla.), Bates ABT 008-0339-0342.

94. Attached hereto as Exhibit 97 is a true and correct copy of the Declaration of T. Reed Stephens in Support of United States' Unopposed Application for Extension of Time to Elect Whether to Intervene in *Qui Tam* Action, filed on November 16, 1998 in *United States of America ex rel Ven-A-Care of the Florida Keys, Inc. v. Abbott Labs. et al.*, Civil Action No. 95-1354-Civ. (S.D. Fla.), Bates ABT 008-1066-1076.

95. Attached hereto as Exhibit 98 is a true and correct copy of the Declaration of T. Reed Stephens in Support of United States' Unopposed Application for Extension of Time to Elect Whether to Intervene in *Qui Tam* Action, filed on April 22, 1999 in *United States of America ex rel Ven-A-Care of the Florida Keys, Inc. v. Abbott Labs. et al.*, Civil Action No. 95-1354-Civ. (S.D. Fla.), Bates ABT 008-1038 to 1043.

96. Attached hereto as Exhibit 99 is a true and correct copy of the Memorandum in Support of Unopposed *Ex Parte* Application of the United States for an Extension of Time to Intervene as of Right, filed on November 29, 2001 in *United States of America ex rel Ven-A-Care of the Florida Keys, Inc. v. Dey Inc. et al.*, Civil Action No. 00-10698 (D. Mass.).

97. Attached hereto as Exhibit 100 is a true and correct copy of the Memorandum in Support of Unopposed *Ex Parte* Application of the United States for an Extension of Time to Intervene

as of Right, filed on December 5, 2002 in *United States of America ex rel Ven-A-Care of the Florida Keys, Inc. v. Dey Inc. et al.*, Civil Action No. 00-10698 (D. Mass.).

98. Attached hereto as Exhibit 101 is a true and correct copy of a document entitled Dey Laboratories Wholesale Price List, Bates DL040.

99. Attached hereto as Exhibit 102 is a true and correct copy of a Dey Laboratories Memorandum to Designated Wholesaler, dated December 16, 1996, Bates DL0216.

100. Attached hereto as Exhibit 103 is a true and correct copy of a Dey Laboratories Memorandum, dated October 25, 1996, Bates DL0224.

101. Attached hereto as Exhibit 104 is a true and correct copy of a Contract Award, effective date January 1, 1994, Bates DL0260.

102. Attached hereto as Exhibit 105 is a true and correct copy of a Contract Proposal, effective date October 1, 1993, Bates DL0506.

103. Attached hereto as Exhibit 106 is a true and correct copy of a letter from Cindy Daulong to Paul D. Pelanek re: Contract Modification, dated July 25, 1996, Bates DL0624.

104. Attached hereto as Exhibit 107 is a true and correct copy of a Contract Award, effective date May 1, 1992, Bates DL1054.

105. Attached hereto as Exhibit 108 is a true and correct copy of a letter to Susan Rhodus re: Price Revision, dated October 7, 1994, Bates DL1246.

106. Attached hereto as Exhibit 109 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated March 16, 1999, Bates DL-0050171.

107. Attached hereto as Exhibit 110 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated March 16, 1999, Bates DEY-MDL-0105073-078.

108. Attached hereto as Exhibit 111 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated August 10, 1999, Bates DEY-LABS-0415389-399.

109. Attached hereto as Exhibit 112 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated March 28, 2000, Bates DEY-LABS-0415614.

110. Attached hereto as Exhibit 113 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated July 18, 2000, Bates DEY-MDL-0105083-089.

111. Attached hereto as Exhibit 114 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated July 18, 2000, Bates DEY-BO0018899-904.

112. Attached hereto as Exhibit 115 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated August 2, 2000, Bates DEY-LABS-0415537-542.

113. Attached hereto as Exhibit 116 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated January 2, 2001, Bates DEY-BO0018909-12.

114. Attached hereto as Exhibit 117 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated June 2001, Bates DEY-BO-0246811-12.

115. Attached hereto as Exhibit 118 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated October 2001, Bates DEY-BO-0254353.

116. Attached hereto as Exhibit 119 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated December 2001, Bates DEY-MDL-0105071-072.

117. Attached hereto as Exhibit 120 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated January 2002, Bates EDEY-BO-0053142-143.

118. Attached hereto as Exhibit 121 is a true and correct copy of a letter from Russell Johnston to State Medicaid/Medicare Administrator, dated February 22, 2006, Bates ALMED-357604.

119. Attached hereto as Exhibit 122 is a true and correct copy of a letter from Russell Johnston to State Medicaid Administrator, dated December 15, 2003, Bates CT0024785.

120. Attached hereto as Exhibit 123 is a true and correct copy of a letter from Russell Johnston to State Medicaid/Medicare Administrator, dated September 2008 (redacted to remove confidential annotations from producing party).

121. Attached hereto as Exhibit 124 is a true and correct copy of a letter from Russell Johnston to State Medicaid Administrator, dated March 2003, Bates MD0015270-71.

122. Attached hereto as Exhibit 125 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated March 16, 1999, Bates R1-014879, previously marked as Exhibit Dey 329.

123. Attached hereto as Exhibit 126 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated August 10, 1999, Bates R1-014889, previously marked as Exhibit Dey 330.

124. Attached hereto as Exhibit 127 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated March 31, 2000, Bates R1-014902-903, previously marked as Exhibit Dey 331.

125. Attached hereto as Exhibit 128 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated July 18, 2000, Bates R1-014883-884, previously marked as Exhibit Dey 332.

126. Attached hereto as Exhibit 129 is a true and correct copy of a letter from Russell Johnston to State Medicaid Administrator, dated October 2004, Bates VA_000001648.

127. Attached hereto as Exhibit 130 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated March 16, 1999, Bates WI-Prod-AWP-128277.

128. Attached hereto as Exhibit 131 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated August 10, 1999, Bates WI-Prod-AWP-128276.

129. Attached hereto as Exhibit 132 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated March 28, 2000, Bates WI-Prod-AWP-128871.

130. Attached hereto as Exhibit 133 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated March 31, 2000, Bates WI-Prod-AWP-128273.

131. Attached hereto as Exhibit 134 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated July 18, 2000, Bates WI-Prod-AWP-128269-270.

132. Attached hereto as Exhibit 135 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated January 2, 2001, Bates WI-Prod-AWP-128245.

133. Attached hereto as Exhibit 136 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated December 2001, Bates WI-Prod-AWP-128225.

134. Attached hereto as Exhibit 137 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated September 2002, Bates WI-Prod-AWP-128869.

135. Attached hereto as Exhibit 138 is a true and correct copy of excerpts from the deposition of Todd Galles, taken on March 1, 2006.

136. Attached hereto as Exhibit 139 is a true and correct copy of excerpts from the deposition of Stephanie Frawley, taken on June 26, 2007.

137. Attached hereto as Exhibit 140 is a true and correct copy of excerpts from the deposition of the Arkansas Department of Human Services' 30(b)(6) designee, Suzette Bridges, taken on December 11, 2008.

138. Attached hereto as Exhibit 141 is a true and correct copy of excerpts from the deposition of Leonard James Terra, taken on December 4, 2008.

139. Attached hereto as Exhibit 142 is a true and correct copy of excerpts from the deposition of the Delaware Division of Medicaid and Medical Assistance's 30(b)(6) designee, Cynthia Denmark, taken on December 9, 2008.

140. Attached hereto as Exhibit 143 is a true and correct copy of excerpts from the deposition of the Delaware Division of Medicaid and Medical Assistance's 30(b)(6) designee, Cynthia Denmark, taken on December 10, 2008.

141. Attached hereto as Exhibit 144 is a true and correct copy of excerpts from the deposition Sandra Kramer, taken on March 25, 2008.

142. Attached hereto as Exhibit 145 is a true and correct copy of excerpts from the deposition of the Nebraska Department of Health and Human Services' 30(b)(6) designee, Gary Cheloha, taken on December 2, 2008.

143. Attached hereto as Exhibit 146 is a true and correct copy of excerpts from the deposition of the North Carolina Department of Health and Human Services' 30(b)(6) designee, Lisa Weeks, taken on October 21, 2008.

144. Attached hereto as Exhibit 147 is a true and correct copy of excerpts from the deposition of the Oregon Department of Human Services' 30(b)(6) designee, Jesse Anderson, taken on December 16, 2008.

145. Attached hereto as Exhibit 148 is a true and correct copy of excerpts from the deposition of Harry Leo Sullivan, taken on March 12, 2008.

146. Attached hereto as Exhibit 149 is a true and correct copy of excerpts from the deposition of the Vermont Department of Health's 30(b)(6) designee, Ann Rugg, taken on December 15, 2008.

147. Attached hereto as Exhibit 150 is a true and correct copy of excerpts from the deposition of the Virginia Department of Medical Assistance Services' 30(b)(6) designee, Keith Hayashi, taken on December 4, 2008.

148. Attached hereto as Exhibit 151 is a true and correct copy of excerpts from the deposition Mary R. Rowlands, taken on November 1, 2007.

149. Attached hereto as Exhibit 152 is a true and correct copy of a letter from Robert F. Mozak to Martha McNeill, dated July 16, 2001.

150. Attached hereto as Exhibit 153 is a true and correct copy of excerpts from the deposition of Cigna's 30(b)(6) designee, Carolyn Helton, taken on March 13, 2008.

151. Attached hereto as Exhibit 154 is a true and correct copy of a print-out from the CMS Strategic Action Plan for 2006-2009 section of the CMS website, dated October 16, 2006, *available at* http://www.cms.hhs.gov/missionvisiongoals/downloads/cmsstrategicactionplan06-09_061023a.pdf.

152. Attached hereto as Exhibit 155 is a true and correct copy of excerpts from the deposition of AdminaStar Federal's 30(b)(6) designee, Cheryl Eiler, taken on August 26, 2008.

153. Attached hereto as Exhibit 156 is a true and correct copy of excerpts from the deposition of Cigna's 30(b)(6) designee, Paula Sue Walker, taken on March 12, 2008.

154. Attached hereto as Exhibit 157 is a true and correct copy of the CMS Healthcare Common Procedure Coding System (HCPCS) Level II Coding Procedures section of the CMS website, revised August 15, 2008, *available at* <http://www.cms.hhs.gov/MedHCPCSGenInfo/Downloads/LevelIICodingProcedures.pdf>.

155. Attached hereto as Exhibit 158 is a true and correct copy of excerpts from the deposition of Palmetto Government Benefits Administrators' 30(b)(6) designee, Robin Kreush Stone, taken on February 29, 2008.

156. Attached hereto as Exhibit 159 is a true and correct copy of Cigna's pricing array for J7644, dated March 7, 2008, previously marked as Exhibit Dey 131.

157. Attached hereto as Exhibit 160 is a true and correct copy of a Department of Health and Human Services Health Care Financing Administration ("HCFA") Program Memorandum, Intermediaries/Carriers, Transmittal No. AB-97-25, dated January 1998, Bates HHD051-0291-92, previously marked as Exhibit Abbott 1014.

158. Attached hereto as Exhibit 161 is a true and correct copy of excerpts of the Balanced Budget Act of 1997, Pub. L. No. 105-33, § 4556, 111 Stat. 251, 462-63 (1997), previously marked as Exhibit Abbott 201.

159. Attached hereto as Exhibit 162 is a true and correct copy of excerpts from the deposition of Robert Niemann, taken on September 14, 2007.

160. Attached hereto as Exhibit 163 is a true and correct copy of excerpts from the deposition of Robert Niemann, taken on October 11, 2007.

161. Attached hereto as Exhibit 164 is a true and correct copy of 42 C.F.R. § 405.517 (1992).

162. Attached hereto as Exhibit 165 is a true and correct copy of excerpts from the deposition of AdminaStar Federal's 30(b)(6) designee, Marsha McQueeney, taken on March 26, 2008.

163. Attached hereto as Exhibit 166 is a true and correct copy of excerpts from the deposition of First Coast Service Options, Inc.'s 30(b)(6) designee, Jean Veal, taken on March 25, 2008.

164. Attached hereto as Exhibit 167 is a true and correct copy of excerpts from the deposition of Robert A. Vito, taken on June 20, 2007.

165. Attached hereto as Exhibit 168 is a true and correct copy of an excerpt from Eli's Home Care Week (Vol. VII, p. 31), Bates HHD009-0150, previously marked as Exhibit Abbott 54.

166. Attached hereto as Exhibit 169 is a true and correct copy of excerpts from the deposition of Nancy-Ann DeParle, taken on May 18, 2007.

167. Attached hereto as Exhibit 170 is a true and correct copy of the Remarks Made By The President In Radio Address To The Nation, dated December 13, 1997, Bates HHD009-0104-05, previously marked as Exhibit Abbott 55.

168. Attached hereto as Exhibit 171 is a true and correct copy of an HCFA Program Memorandum, Intermediaries/Carriers, Transmittal No. AB-98-76, dated December 1998, Bates HHC021-0030-31, previously marked as Exhibit Abbott 1015.

169. Attached hereto as Exhibit 172 is a true and correct copy of an HCFA Program Memorandum, Intermediaries/Carriers, Transmittal No. AB-99-63, dated September 1999, Bates HHD084-0665-67, previously marked as Exhibit Abbott 1006.

170. Attached hereto as Exhibit 173 is a true and correct copy of an HCFA Program Memorandum, Intermediaries/Carriers, Transmittal No. AB-00-110, dated November 14, 2000, Bates HHD084-0695-96, previously marked as Exhibit Abbott 1008.

171. Attached hereto as Exhibit 174 is a true and correct copy of an HCFA Program Memorandum, Intermediaries/Carriers, Transmittal No. AB-02-075, dated May 22, 2002, Bates HHD085-0006-07, previously marked as Exhibit Abbott 1011.

172. Attached hereto as Exhibit 175 is a true and correct copy of 42 C.F.R. § 405.517 (1999).

173. Attached hereto as Exhibit 176 is a true and correct copy of 42 C.F.R. § 405.517 (2003).

174. Attached hereto as Exhibit 177 is a true and correct copy of excerpts from the deposition of the United States of America's 30(b)(6) designee, Francis Donald Thompson, taken on September 30, 2008.

175. Attached hereto as Exhibit 178 is a true and correct copy of 42 C.F.R. § 414.707 (2005).

176. Attached hereto as Exhibit 179 is a true and correct copy of the United States General Accounting Office report entitled Use of Revised Inherent Reasonableness Process Generally Appropriate (GAO/HEHS-00-79), dated July 2000.

177. Attached hereto as Exhibit 180 is a true and correct copy of an e-mail from Bob Zone to LBallantine@hcfa.gov, dated April 29, 1998, Bates AWQ057-0206-216.

178. Attached hereto as Exhibit 181 is a true and correct copy of an HCFA Program Memorandum, Intermediaries/Carriers, dated September 8, 2000, Bates HHD006-0654-74, previously marked as Exhibit Abbott 138.

179. Attached hereto as Exhibit 182 is a true and correct copy of a Memorandum from Kevin Thurm to Michael M. Hash, Bates HHC902-0251-58.

180. Attached hereto as Exhibit 183 is a true and correct copy of an HCFA Program Memorandum, Intermediaries/Carriers, Transmittal No. AB-00-115, dated November 17, 2000, Bates HHD004-0022-23, previously marked as Exhibit Abbott 1007.

181. Attached hereto as Exhibit 184 is a true and correct copy of 42 C.F.R. § 414.1001 (2005).

182. Attached hereto as Exhibit 185 is a true and correct copy of CMS Provider Inquiry Assistance, "Supplying Fee and Inhalation Drug Dispensing Fee Revisions and Clarifications," dated December 8, 2005, *available at* <http://www.cms.hhs.gov/ContractorLearningResources/downloads/JA3990.pdf>.

183. Attached hereto as Exhibit 186 is a true and correct copy of excerpts from the deposition of Nancy-Ann DeParle, taken on December 5, 2007.

184. Attached hereto as Exhibit 187 is a true and correct copy of a letter from William L. Roper to John F. Schlegel, dated September 1, 1987, Bates HHC002-0564-65, previously marked as Exhibit Abbott 762.

185. Attached hereto as Exhibit 188 is a true and correct copy of a letter from J.D. Sconce, Regional Administrator for HCFA, to Fred Schutzman, Director, Bureau of Quality Control for HCFA, Bates HHD084-0006-21, previously marked as Exhibit Dey 529.

186. Attached hereto as Exhibit 189 is a true and correct copy of excerpts from the deposition of Thomas Andrew Scully, taken on May 15, 2007.

187. Attached hereto as Exhibit 190 is a true and correct copy of 42 C.F.R. §§ 447.331(a), 447.332 (1987).

188. Attached hereto as Exhibit 191 is a true and correct copy of excerpts from the deposition of Mike Robinson, taken on February 7, 2008.

189. Attached hereto as Exhibit 192 is a true and correct copy of excerpts from the deposition of the Arkansas Department of Human Services' 30(b)(6) designee, Suzette Bridges, taken on December 10, 2008.

190. Attached hereto as Exhibit 193 is a true and correct copy of excerpts from the deposition of Dr. Paul Jeffrey, taken on June 14, 2007.

191. Attached hereto as Exhibit 194 is a true and correct copy of 52 Fed. Reg. 28,648 (July 31, 1987).

192. Attached hereto as Exhibit 195 is a true and correct copy of excerpts from the deposition of Jude E. Walsh, taken on March 26, 2008.

193. Attached hereto as Exhibit 196 is a true and correct copy of excerpts from the deposition of Cody Wiberg, taken on March 14, 2008.

194. Attached hereto as Exhibit 197 is a true and correct copy of excerpts from the deposition of Theodore Michael Collins, taken on October 30, 2007.

195. Attached hereto as Exhibit 198 is a true and correct copy of excerpts from the deposition of the Georgia Department of Community Health's 30(b)(6) designee, Jerry Dubberly, taken on December 15, 2008.

196. Attached hereto as Exhibit 199 is a true and correct copy of 40 Fed. Reg. 32284 (July 31, 1975).

197. Attached hereto as Exhibit 200 is a true and correct copy of 42 C.F.R. §§ 447.331-33 (1987).

198. Attached hereto as Exhibit 201 is a true and correct copy of 52 Fed. Reg. 28648 (July 31, 1987).

199. Attached hereto as Exhibit 202 is a true and correct copy of 42 C.F.R. § 447.332 (2006).

200. Attached hereto as Exhibit 203 is a true and correct copy of excerpts from the deposition of Susan E. Gaston, taken on January 24, 2008.

201. Attached hereto as Exhibit 204 is a true and correct copy of excerpts from the deposition of Gail Sexton, taken on May 20, 2008.

202. Attached hereto as Exhibit 205 is a true and correct copy of excerpts from the deposition of Susan E. Gaston, taken on March 19, 2008.

203. Attached hereto as Exhibit 206 is a true and correct copy of the Defendants' Joint Motion for Summary Judgment on Plaintiffs' "FUL Fraud" Claims, filed on May 15, 2009 in *City of New York, et al. v. Abbott Laboratories, et al.*, Civil Action No. 01-12257-PBS, (D. Mass.) Docket 6052.

204. Attached hereto as Exhibit 207 is a true and correct copy of the Defendants' Memorandum in Support of their Joint Motion for Summary Judgment on Plaintiffs' "FUL Fraud" Claims, filed on May 15, 2009 in *City of New York, et al. v. Abbott Laboratories, et al.*, Civil Action No. 01-12257-PBS, (D. Mass.) Docket 6053.

205. Attached hereto as Exhibit 208 is a true and correct copy of the Local Rule 56.1 Statement of Undisputed Material Facts Supporting Defendants' Joint Motion for Summary Judgment on Plaintiffs' "FUL Fraud" Claims, filed on May 15, 2009 in *City of New York, et al. v. Abbott Laboratories, et al.*, Civil Action No. 01-12257-PBS, (D. Mass.) Docket 6054.

206. Attached hereto as Exhibit 209 is a true and correct copy of excerpts from the deposition of Lynn Shirley Donovan, taken on April 29, 2008.

207. Attached hereto as Exhibit 210 is a true and correct copy of Hawaii Department of Human Services' State Plan Amendment, Transmittal No. 01-004, Bates HHC016-0338-43.

208. Attached hereto as Exhibit 211 is a true and correct copy of excerpts from the deposition of James Kevin Gorospe, taken on September 22, 2008.

209. Attached hereto as Exhibit 212 is a true and correct copy of excerpts from the deposition of Allen D. Chapman, taken on December 15, 2008.

210. Attached hereto as Exhibit 213 is a true and correct copy of excerpts from the deposition of the Illinois Department of Healthcare and Family Services' 30(b)(6) designee, James Parker, taken on November 18, 2008.

211. Attached hereto as Exhibit 214 is a true and correct copy of excerpts from the deposition of the Indiana Family and Social Services Administration's 30(b)(6) designee, Carl Mark Shirley, taken on December 2, 2008.

212. Attached hereto as Exhibit 215 is a true and correct copy of excerpts from the deposition of Mary Julia Terrebonne, taken on March 31, 2008.

213. Attached hereto as Exhibit 216 is a true and correct copy of excerpts from the deposition of the Maryland Department of Health and Mental Hygiene's 30(b)(6) designee, Joseph L. Fine, taken on December 9, 2008.

214. Attached hereto as Exhibit 217 is a true and correct copy of excerpts from the deposition of the New Hampshire Department of Health and Human Services' 30(b)(6) designee, Lise C. Farrand, taken on October 28, 2008.

215. Attached hereto as Exhibit 218 is a true and correct copy of excerpts from the deposition of the New Jersey Department of Human Services' 30(b)(6) designee, Edward J. Vaccaro, taken on December 2, 2008.

216. Attached hereto as Exhibit 219 is a true and correct copy of excerpts from the deposition of the New Mexico Department of Human Services' 30(b)(6) designee, Robert J. Stevens, taken on December 15, 2008.

217. Attached hereto as Exhibit 220 is a true and correct copy of excerpts from the deposition of the North Dakota Department of Human Services' 30(b)(6) designee, Brendan Joyce, taken on December 12, 2008.

218. Attached hereto as Exhibit 221 is a true and correct copy of excerpts from the deposition of Robert Paul Reid, taken on December 15, 2008.

219. Attached hereto as Exhibit 222 is a true and correct copy of excerpts from the deposition of the Oklahoma Health Care Authority's 30(b)(6) designee, Nancy Nesser, taken on December 12, 2008.

220. Attached hereto as Exhibit 223 is a true and correct copy of excerpts from the deposition of the Oregon Department of Human Services' 30(b)(6) designee, Kathy Ketchum, taken on December 15, 2008.

221. Attached hereto as Exhibit 224 is a true and correct copy of excerpts from the deposition of the Rhode Island Department of Human Services' 30(b)(6) designee, John Young, taken on December 3, 2008.

222. Attached hereto as Exhibit 225 is a true and correct copy of excerpts from the deposition of the South Dakota Department of Social Services' 30(b)(6) designee, Larry Iversen, taken on December 15, 2008.

223. Attached hereto as Exhibit 226 is a true and correct copy of excerpts from the deposition of the Washington Department of Social and Health Services' 30(b)(6) designee, Ayuni Hautea-Wimpee, taken on November 24, 2008.

224. Attached hereto as Exhibit 227 is a true and correct copy of excerpts from the deposition of the Wyoming Department of Health's 30(b)(6) designee, Roxanne Homar, taken on December 2, 2008.

225. Attached hereto as Exhibit 228 is a true and correct copy of an excerpt from the Alabama Medicaid's provider manual, *available at* http://www.medicaid.state.al.us/documents/Billing/5-G_Manuals/5G-2_Provider.Manual_Jan.2006/Jan06-Glossary.pdf.

226. Attached hereto as Exhibit 229 is a true and correct copy of an excerpt from the Virginia Department of Medical Assistance Services' provider manual, dated March 15, 1994, *available at* http://websrvr.dmas.virginia.gov/ProviderManuals/ManualChapters/General/appendixa_gen.pdf.

227. Attached hereto as Exhibit 230 is a true and correct copy of the United States' Objections and Responses to Interrogatory No. 12 of the Dey Defendants' Second Set of Interrogatories, served on May 15, 2009.

228. Attached hereto as Exhibit 231 is a true and correct copy of a letter from Patrick E. Lupinetti to Pharmacy Director, Wyoming Division of Health Care Financing, dated February 16, 2000, Bates HHD006-0109-11, previously marked as Exhibit Abbott 137.

229. Attached hereto as Exhibit 232 is a true and correct copy of the OIG report entitled Medicaid's Use of Revised Average Wholesale Prices (OEI-03-01-00010), dated September 2001, previously marked as Exhibit Abbott 95.

230. Attached hereto as Exhibit 233 is a true and correct copy of an e-mail from David Shepherd to Martha McNeill, sent June 23, 2000, previously marked as Exhibit Abbott 492.

231. Attached hereto as Exhibit 234 is a true and correct copy of excerpts from the deposition of David L. Campana, also testifying as the State of Alaska's 30(b)(6) designee, taken on August 19, 2008.

232. Attached hereto as Exhibit 235 is a true and correct copy of excerpts from the deposition of David L. Campana, also testifying as the State of Alaska's 30(b)(6) designee, taken on August 20, 2008.

233. Attached hereto as Exhibit 236 is a true and correct copy of excerpts from the deposition of James Kevin Gorospe, taken on March 19, 2008.

234. Attached hereto as Exhibit 237 is a true and correct copy of excerpts from the deposition of Jerry Wells, taken on December 15, 2004.

235. Attached hereto as Exhibit 238 is a true and correct copy of excerpts from the deposition of the Commonwealth of Massachusetts' 30(b)(6) designee, Dr. Paul Jeffrey, taken on October 19, 2007.

236. Attached hereto as Exhibit 239 is a true and correct copy of excerpts from the deposition of Patricia C. Gladden, taken on January 15, 2009.

237. Attached hereto as Exhibit 240 is a true and correct copy of excerpts from the deposition of Patricia C. Gladden, taken on March 25, 2009.

238. Attached hereto as Exhibit 241 is a true and correct copy of excerpts from the deposition of Patricia C. Gladden, taken on May 30, 2007.

239. Attached hereto as Exhibit 242 is a true and correct copy of excerpts from the deposition of Barbara Benton Dean, also testifying as the Texas Health and Human Services Commission's 30(b)(6) designee, taken on August 6, 2007.

240. Attached hereto as Exhibit 243 is a true and correct copy of Minnesota Department of Human Services' State Plan Amendment, Transmittal No. 91-21, Bates HHD075-0339-58.

241. Attached hereto as Exhibit 244 is a true and correct copy of California Department of Health Services' State Plan Amendment, Transmittal No. 89-08, Bates HHC016-0712-17.

242. Attached hereto as Exhibit 245 is a true and correct copy of Florida Agency for Health Care Administration's State Plan Amendment, Transmittal No. 93-56, Bates HHC008-0029.

243. Attached hereto as Exhibit 246 is a true and correct copy of Billing Instructions for the Washington Department of Social and Health Services, previously marked as Exhibit Hautea-Wimpee 011, Bates US v. Abbott WA-00001279-1327.

244. Attached hereto as Exhibit 247 is a true and correct copy of New Hampshire Division of Human Services' State Plan Amendment, Transmittal No. 90-2, Bates HHD040-0164-67.

245. Attached hereto as Exhibit 248 is a true and correct copy of a memorandum from Scott Allen MacDonald to Tony S. Catalfano, Bates NH00861, dated December 21, 1995, previously marked as Exhibit Farrand USA 8.

246. Attached hereto as Exhibit 249 is a true and correct copy of California Department of Health Services' State Plan Amendment, Transmittal No. 89-08, Bates HHC016-0712-17.

247. Attached hereto as Exhibit 250 is a true and correct copy of North Carolina Department of Health and Human Services' State Plan Amendment, Transmittal No. 89-09, previously marked as Exhibit Weeks 11, Bates HHD137-0243-48.

248. Attached hereto as Exhibit 251 is a true and correct copy of Tennessee Medicaid's State Plan Amendment, Transmittal No. 90-32, Bates HHC008-0083.

249. Attached hereto as Exhibit 252 is a true and correct copy of excerpts from the deposition of Jerry Wells, taken on May 25, 2005.

250. Attached hereto as Exhibit 253 is a true and correct copy of the OIG report entitled Generic Drug Utilization in State Medicaid Programs (OEI-05-05-00360), dated July 2006.

251. Attached hereto as Exhibit 254 is a true and correct copy of Florida Agency for Health Care Administration's State Plan Amendment, Transmittal No. 2000-13, Bates HHC008-0015.

252. Attached hereto as Exhibit 255 is a true and correct copy of Florida Agency for Health Care Administration's State Plan Amendment, Transmittal No. 2004-024, Bates HHD111-2393.

253. Attached hereto as Exhibit 256 is a true and correct copy of Minnesota Department of Human Services' State Plan Amendment, Transmittal No. 03-01, Bates HHD075-0227-43.

254. Attached hereto as Exhibit 257 is a true and correct copy of Minnesota Department of Human Services' State Plan Amendment, Transmittal No. 03-29, Bates HHD075-0244-60.

255. Attached hereto as Exhibit 258 is a true and correct copy of excerpts from the deposition of Jerry Wells, taken on December 16, 2004.

256. Attached hereto as Exhibit 259 is a true and correct copy of excerpts from the deposition of Margaret Clifford, taken on October 29, 2008.

257. Attached hereto as Exhibit 260 is a true and correct copy of excerpts from the deposition of the Washington Department of Social and Health Services' 30(b)(6) designee, Myra Davis, taken on December 3, 2008.

258. Attached hereto as Exhibit 261 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, previously marked as Exhibit Hautea-Wimpee 019, dated January 2, 2001, Bates DEY057-0686.

259. Attached hereto as Exhibit 262 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated July 18, 2000, previously marked as Exhibit Dey 124, Bates DEY-MDL-0105083-89.

260. Attached hereto as Exhibit 263 is a true and correct copy of a letter from Robert F. Mozak to State Medicaid Administrator, dated July 18, 2000, previously marked as Exhibit Dey 91, Bates DEY-WI-0121379-90.

261. Attached hereto as Exhibit 264 is a true and correct copy of excerpts from the deposition of Patricia C. Gladden, taken on October 4, 2001.

262. Attached hereto as Exhibit 265 is a true and correct copy of excerpts from the deposition of the State of Alaska Department of Health and Social Services' 30(b)(6) designee, David L. Campana, taken on August 21, 2008.

263. Attached hereto as Exhibit 266 is a true and correct copy of excerpts from the deposition of Jerry Wells, taken on August 14, 2006.

264. Attached hereto as Exhibit 267 is a true and correct copy of excerpts from the deposition of Jerry Wells, taken on May 26, 2005.

265. Attached hereto as Exhibit 268 is a true and correct copy of Medicaid State Drug Utilization Data, dated August 2008, *available at* <http://www.cms.hhs.gov/MedicaidDrugRebateProgram/downloads/UtilWebLayoutAug2008.pdf>

266. Attached hereto as Exhibit 269 is a true and correct copy of a print-out of the Medicaid Analytic eXtract (MAX) General Information section of the Centers for Medicare and Medicaid Services website, *available at* http://www.cms.hhs.gov/MedicaidDataSourcesGenInfo/07_MAXGeneralInformation.asp.

267. Attached hereto as Exhibit 270 is a true and correct copy of the report of Mark G. Duggan, dated January 23, 2009, produced by Plaintiffs in this action.

268. Attached hereto as Exhibit 271 is a true and correct copy of a print-out from the Alabama Medicaid Agency website, *available at* http://www.medicaid.alabama.gov/programs/pharmacy_svcs/pharmacy_services.aspx.

269. Attached hereto as Exhibit 272 is a true and correct copy of a print-out from the Myers & Stauffer LC website, *available at* <http://al.mslc.com/Faqs.aspx>.

270. Attached hereto as Exhibit 273 is a true and correct copy of excerpts from the deposition of the Myers & Stauffer, L.C.'s 30(b)(6) designee, Tracy Allan Hansen, taken on December 10, 2008.

271. Attached hereto as Exhibit 274 is a true and correct copy of excerpts from the deposition of the California Department of Health Care Services' 30(b)(6) designee, taken on December 3, 2008.

272. Attached hereto as Exhibit 275 is a true and correct copy of excerpts from the deposition of Evelyn Dudley, taken on May 16, 2005.

273. Attached hereto as Exhibit 276 is a true and correct copy of excerpts from the deposition of Jerry Wells, taken on December 15, 2008.

274. Attached hereto as Exhibit 277 is a true and correct copy of excerpts from the deposition of the State of Hawaii's 30(b)(6) designee, Aileen Hiramatsu, taken on May 2, 2008.

275. Attached hereto as Exhibit 278 is a true and correct copy of a print-out from the Myers & Stauffer LC website, *available at* <http://id.mslc.com/faqs.aspx>.

276. Attached hereto as Exhibit 279 is a true and correct copy of Plaintiff's Answers to Defendant Boehringer Ingelheim Pharmaceuticals Inc.'s Amended Third Set of Interrogatories, dated July 24, 2008, filed in *The People of the State of Illinois v. Abbott Labs. et al.*, No. 05CH 2474 (Cook Co. Ill.), previously marked as Exhibit 10 to the deposition of James Parker, taken on November 18, 2008.

277. Attached hereto as Exhibit 280 is a true and correct copy of excerpts from the deposition of Carl Mark Shirley, taken on December 3, 2008.

278. Attached hereto as Exhibit 281 is a true and correct copy of excerpts from the deposition of Michael Sharp, taken on March 28, 2008.

279. Attached hereto as Exhibit 282 is a true and correct copy of a print-out from the Myers & Stauffer LC website, *available at* <http://mslciowa.com/FAQ.htm#Q6>.

280. Attached hereto as Exhibit 283 is a true and correct copy of excerpts from the deposition of James Kenyon, taken on March 25, 2008.

281. Attached hereto as Exhibit 284 is a true and correct copy of excerpts from the deposition of Rhonda Driver, taken on October 18, 2007.

282. Attached hereto as Exhibit 285 is a true and correct copy of excerpts from the deposition of Coleen Lawrence, taken on March 23, 2006.

283. Attached hereto as Exhibit 286 is a true and correct copy of excerpts from the deposition of the State of Alabama's 30(b)(6) designee, Mary Finch, taken on May 24, 2007.

284. Attached hereto as Exhibit 287 is a true and correct copy of Kentucky Medicaid Drug Maximum Allowable Cost Frequently Asked Questions, updated March 26, 2003, *available at* <http://chfs.ky.gov/NR/rdonlyres/335E2C19-35A9-4DDE-908F-53F74B2460AC/0/faq032603.pdf>.

285. Attached hereto as Exhibit 288 is a true and correct copy of the Pharmacy Manual from the Commonwealth of Massachusetts MassHealth Provider Manual Series, dated September 15, 2008, *available at* http://www.mass.gov/Eeohhs2/docs/masshealth/regs_provider/regs_pharmacy.pdf.

286. Attached hereto as Exhibit 289 is a true and correct copy of the Commonwealth of Massachusetts Division of Health Care Finance and Policy regulation 114.3 CMR 31.00, adopted on September 11, 2008, *available at* http://www.mass.gov/Eeohhs2/docs/dhcfp/g/regs/114_3_31.pdf.

287. Attached hereto as Exhibit 290 is a true and correct copy of 55 Pa. Code Ch. 1121 (2005), *available at* www.pabulletin.com/secure/data/vol35/35-34/1561.html.

288. Attached hereto as Exhibit 291 is a true and correct copy of excerpts from the deposition of Mark G. Duggan, taken on February 27, 2009.

289. Attached hereto as Exhibit 292 is a true and correct copy of excerpts from the deposition of AdminaStar Federal's 30(b)(6) designee, Cheryl Eiler, taken on August 28, 2008.

290. Attached hereto as Exhibit 293 is a true and correct copy of the Affidavit of Cesar A. Perales, filed on May 15, 2009 in *City of New York, et al. v. Abbott Laboratories, et al.*, Civil Action No. 01-12257-PBS, (D. Mass.).

291. Attached hereto as Exhibit 294 is a true and correct copy of the Affidavit of Dr. Sumanth Addanki, filed on May 15, 2009 in *City of New York, et al. v. Abbott Laboratories, et al.*, Civil Action No. 01-12257-PBS, (D. Mass.).

292. Attached hereto as Exhibit 295 is a true and correct copy of the Declaration of Kim B. Nemirow Transmitting Deposition Testimony and Hearing Transcripts Relied Upon in Support of Defendants' Joint Motion for Summary Judgment on Plaintiffs' "FUL Fraud" Claims, filed on May 15, 2009 in *City of New York, et al. v. Abbott Laboratories, et al.*, Civil Action No. 01-12257-PBS, (D. Mass.).

293. Attached hereto as Exhibit 296 is a true and correct copy of a document previously marked at the deposition of Robert Francis Mozak, taken on November 6, 2002, as Exhibit Mozak 342.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on June 26, 2009.



Sarah L. Reid